

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Howard & Frances Adcock)
 Dist. 15, Map 95LB, Group F, Control Map 95LB,) Blount County
 Parcel 47.00, S.I. 000)
 Residential Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$27,000	\$61,500	\$88,500	\$22,125

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 8, 2007 in Maryville, Tennessee. The assessor of property, Mike Morton, represented himself. As will be discussed below, the taxpayers did not personally appear at the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The administrative judge scheduled this matter for a jurisdictional and value hearing. On April 18, 2007, the parties filed a stipulation indicating subject property should be valued at \$80,000. Thus, the only issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Blount County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of

them. It was not the intent of the ‘reasonable cause’ provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer’s control.

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayers must show that circumstances beyond their control prevented them from appealing to the Blount County Board of Equalization.

The administrative judge finds that Mr. Adcock has been seriously ill since suffering a stroke since prior to convening of the Blount County Board of Equalization. The administrative judge finds that Mr. Adcock’s illness has effectively prevented him or Mrs. Adcock from appearing before the Blount County Board of Equalization or the State Board of Equalization.

The administrative judge finds that the assessor has graciously worked with Mrs. Adcock and a neighbor to resolve the appeal without the need for the Adcock’s to attend a hearing. Indeed, the cover letter accompanying the stipulation stated that “[t]his agreement is due to the failing health of Mr. Adcock and that Mrs. Adcock is not able to attend [the] scheduled [hearing].”

The administrative judge finds that the taxpayers failure to appear before the Blount County Board of Equalization was unquestionably due to a circumstance beyond their control. Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction to implement the stipulated value of \$80,000.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$27,000	\$53,000	\$80,000	\$20,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

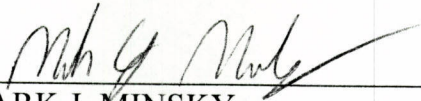
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**”

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of May, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Howard & Frances Adcock
Mike Morton, Assessor of Property